

## CALIFORNIA WETLANDS CONSERVATION POLICY

Governor Pete Wilson

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The goal of the California Wetlands Conservation Policy is to establish a policy framework and strategy that will:

- \*\* Ensure no overall net loss and achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship and respect for private property.
- \*\* Reduce procedural complexity in the administration of State and Federal wetlands conservation programs.
- \*\* Encourage partnerships to make landowner incentive programs and cooperative planning efforts the primary focus of wetlands conservation and restoration.

### Elements

The policy means that are employed to achieve these objectives are largely three in nature. They (and the pages in which they and their components parts are fully outlined in this document) are:

- I. Statewide policy initiatives (pages 2-7), including:
  - \* a Statewide wetlands inventory
  - \* support for wetland planning
  - \* improved administration of existing regulatory programs
  - \* strengthened landowner incentives to protect wetlands
  - \* support for mitigation banking
  - \* development and expansion of other wetlands programs
  - \* integration of wetlands policy and planning with other environmental and land use processes
- II. Three geographically based regional strategies in which wetlands programs can be implemented, refined, and combined in unique ways to achieve the goals and objectives of the policy (pages 8-12). These strategies will be implemented in:
  - \* the Central Valley
  - \* San Francisco Bay Area, and
  - \* Southern California
- III. Creation of an interagency wetlands task force on wetlands to direct and coordinate administration and implementation of the policy (Page 13)

## STATEWIDE INITIATIVES

### I. Wetlands Inventory and Goals

Statewide wetlands data collection efforts have occurred only at a very a broad level. As a consequence, wetland decision-making - whether related to regulation, acquisition, restoration or other activities - has often proceeded in a piecemeal fashion. It has also been difficult to establish specific statewide goals for restoration and enhancement of wetlands absent such an inventory.

- A. Conduct statewide wetlands inventory and establish a wetlands accounting system.

The inventory will compile U.S. Fish and Wildlife Service National Wetland Inventory and other available data into an understandable and accessible format. It will serve as a baseline from which to determine losses and gains (both functional and acreage) to the State's wetlands base. Biennial reports on the status of the State's wetlands will be made. This inventory will not be used for regulatory purposes.

- B. Identify regional and Statewide restoration and enhancement goals.

Using information derived from the inventory, the State will identify regional and Statewide goals for conserving, restoring and enhancing wetlands. Achievement of these goals will emphasize maintaining economic uses (e.g., agriculture) of restored and enhanced lands and be achieved through the voluntary participation of landowners. These goals are not meant to be achieved on a permit-by-permit basis.

- ♦ Participating entities: Department of Fish and Game, the Resources Agency, Department of Food and Agriculture, Cal/EPA, SWRCB

## II. Support Wetlands Planning

To date, there have been very few integrated planning efforts which included the use and conservation of wetlands in California. The planning that has occurred has been in association with broader land use planning efforts or has been driven by non-wetlands related needs.

### A. Encourage local and regional wetlands planning in coordination with State growth management policies.

*The State will encourage efforts by local and regional governments to incorporate wetlands into planning processes. These efforts are likely to include watershed plans, advanced identification of wetlands, and floodplain management. All new and existing wetlands policies with need to incorporate and coordinate with growth management efforts.*

- ♦ **Participating entities:** The Governor's Office of Planning and Research, the Resources Agency, Department of Fish and Game, local government representatives.

## III. Improve the Administration of Wetlands Regulatory Programs

Federal and State regulations seek to protect wetlands from being filled unnecessarily and assure mitigation of unavoidable wetland impacts. However, the current Federal-State system of wetlands regulation in California is unnecessarily fragmented and cumbersome for landowners, and, in some parts of the State, fails to protect unique types of California wetlands.

### A. Assume the Federal Clean Water Act Section 404 permitting authorities on an incremental basis.

1) In the near-term, the State will negotiate with the Army Corps of Engineers the delegation of Section 404 permitting authority in the San Francisco Bay Area, with possible funding, to the San Francisco Regional Water Quality Control Board and, for a limited set of activities, the San Francisco Bay Conservation and Development Commission through a "State Program General Permit" (SPGP), or similar mechanism. Once secured, the SPGP will effectively remove one layer of review from the wetlands regulatory process, while maintaining the effectiveness of the program. (See San Francisco Regional Strategy)

2) In the long-term, after evaluation and a determination that the San Francisco Bay Area demonstration program has been a success, the State will either take over full control of the Section 404 permitting authority or seek additional State Program General Permits, or similar mechanism, tailored to meet the needs of other regions. Adequate Federal funding will need to be obtained to support either approach.

3) Work with Congress to amend Section 404 of the Clean Water Act to enhance the program's administration and the transfer of the program to the states, including provision of funding.

**B. Develop and adopt a consistent wetlands definition for State regulatory purposes.**

Because of the lack of consistency in the existing definitions of wetlands definitions used by State agencies, the State will work toward the adoption of a single definition for regulatory purposes. The definition will, to the greatest extent possible, be consistent with the definition and wetlands delineation manual used by the Federal government. The definition will also recognize California's unique wetland types, and not apply to prior converted croplands currently exempt from federal regulation.

**C. Develop and Adopt a State policy regarding Army Corps of Engineers Nationwide Permits.**

The policy requests the SWRCB, upon adequate environmental review, to develop a balanced policy on such permits, which emphasizes the conservation of large, non-fragmented, functioning wetlands. In addition, the policy encourages the SWRCB to adopt as many of these permits as quickly as possible, consistent with this direction.

**D. Develop and adopt consistent wetlands standards and guidelines.**

The application of standards and guidelines varies in content and application between State agencies and therefore can cause confusion about and inconsistent application of the State's policies. The State will convene the relevant agencies to develop consistent policies, standards and guidelines--on a statewide or regional basis--relative to mitigation and restoration monitoring and evaluation.

- E. Enhance efficiency of and coordination in the wetland permitting process.

The State will initiate and support a number of activities to improve the administration of wetlands programs. These include pre and post application coordination meetings, firm time deadlines, and concurrent permit review periods.

- F. Encourage regulatory flexibility in situations in which wetlands are created unintentionally or incidental to other activities.

Many private landowners and public agencies create wetlands unintentionally or incidentally, e.g., drainage ditches, land held under agricultural best management practices, and wet areas from parking lot run-off. The State will encourage regulatory agencies to take a flexible approach in regulating these types of wetlands.

- G. Encourage regulatory flexibility to allow public agencies and water districts to create wetlands but later remove them if the wetlands are found to conflict with the primary purpose to which the property is devoted. (See also Central Valley Regional Strategy)

Many Large public and private land owners, such as flood control agencies and water districts, can often integrate substantial wetland habitat into the operation of their lands. This habitat, however, may need to be removed or modified periodically for the agency to achieve the primary purpose to which the land is devoted, e.g., water storage or flood management. Many agencies with the potential of creating temporary wetland habitat would do so if they had assurances of regulatory flexibility.

- ♦ Participating entities: Cal/EPA, SWRCB, RWQCB, Fish and Game, Office of Permit Assistance, BT&H, T&C, CDFA, Resources Agency, CCC, BCDC, SLC

#### IV. Achieve Wetlands Conservation Through Landowner Incentives

By helping to make wetlands ownership an asset for California landowners, incentive programs can be used to achieve significant net gains of wetlands especially, for example, in agricultural and recreational areas.

- A. Support USDA's Wetlands Reserve Program (WRP) and other public financial incentive programs.

The State will support funding for WRP and modification of it to meet California's unique needs. The State will also support additional Federal funds from the Land and Water Conservation Fund and State funding of wetlands incentive programs. These programs could include provision of income streams for privately-owned wetlands.

- B. Support other existing programs to voluntarily acquire, restore, enhance, and manage wetlands.

The State will continue to support the voluntary acquisition, restoration, enhancement and management of wetlands through sufficiently funded State, Federal, local and private programs. The use of State funds will emphasize the restoration, enhancement, and management of existing State-owned wetlands.

- C. Enhance coordination of State, Federal, and private, voluntary acquisition, restoration, enhancement, and management programs.

The State will convene regular meetings of all the agencies involved in wetlands acquisition, restoration, enhancement and management activities. The intent will be to improve the coordination of the existing programs and leverage limited funds for the implementation of these programs.

- D. Support natural resources bond act.

The State will continue to support the need for a natural resources bond act which includes over \$70 million for wetlands acquisition, restoration, and enhancement.

- E. Publish landowner's assistance guide.

The State will publish and widely distribute a landowner's assistant guide detailing the range of State, Federal, and private incentive programs.

- ♦ Participating entities: Resources Agency, OPR, Department of Fish and Game, CDFA, WCB, Conservancies.

## V. Support Wetlands Mitigation Banking

Wetland mitigation banking allows proponents of unavoidable wetland fills to buy credits in pre-established mitigation sites or banks. The goal is to develop high quality mitigation while freeing economic interests developers from the responsibility of developing new mitigation for every project. Project-by-project mitigation often results in low quality, fragmented wetlands. Banking strategies thus can provide flexibility and regulatory relief for landowners while financing the creation of large wetlands with high functional values. Development of mitigation banks, however, has been stymied in part because of uncertainties related to necessary but as yet undefined governmental requirements for bank operations.

### A. Develop and adopt state mitigation banking guidelines.

*The State will develop and adopt guidelines for wetland mitigation banks which recognize regional concerns, contain flexible mitigation ratios, are consistent with Federal agency guidelines, and encourage decisions to locate banks in the context of local or regional plans. (See also Central Valley Regional Strategy)*

- ♦ Participating entities: Resources Agency, Fish and Game Commission, Fish and Game, Cal/EPA, SWRCB, RWQCB, CCC, BCDC, SLC, CDFA

## VI. Develop and Expand Other Wetlands Programs

Several other programs will need to be improved or undertaken to meet the overall objectives of this California Wetlands Policy. These include wetlands management and education programs and public lands management.

### A. Address management and operations of wetlands.

*Recognizing that the responsibility for wetlands only begins with acquisition or restoration, the State will work to provide adequate financial resources for wetlands management and operations, including water source and delivery, mosquito abatement and vector control. The emphasis for these programs will be on State-owned wetlands. The State also recognizes the responsibility public and private wetlands landowners have to their neighbors and will establish a model "good neighbor" policy to guide management of newly created, restored or enhanced wetlands.*

- B. Establish State level wetlands information clearinghouse, education, and research programs.

*Because there is no single repository for information on wetlands in the state, the Resources Agency will establish such a repository for information related to the full range of wetlands policies, programs and projects. The State will also undertake programs to increase public awareness of wetlands and better coordinate and direct the wetlands research agenda.*

- C. Direct State agencies to develop internal policies and programs to encourage wetland conservation activities.

*The policy directs State agencies to develop internal wetlands conservation policies and programs which are compatible with programmatic goals such as flood control, groundwater recharge, water management, water pollution control, transportation, recreation, and other purposes.*

- D. Work with Federal agencies to maximize and coordinate wetlands conservation activities on Federal land.

*Because over half of the land in California is owned and managed by the federal government, the State will work closely with the land management agencies to maximize wetlands conservation, while maintaining appropriate economic uses.*

- ♦ Participating entities: Resources Agency, Fish and Game, WCB, Conservancies, DWR, CDFA, BT&H, CalTrans, DPR, CDF, Executive Council on Biodiversity, University of California, CSU, and various Federal agencies



## REGIONAL IMPLEMENTATION STRATEGIES

In order to successfully implement the many policies and programs described above, regional projects have been identified in the Central Valley, San Francisco Bay Area, and Southern California to serve as pilots for implementing the policy. These projects will permit State government to tailor statewide policies and programs to local conditions, help the State learn what works and what does not, and can be implemented in those parts of the State where a high likelihood of success will help sustain public support for the program over time.

### I. Regional strategy for the Central Valley

#### **A. Support the program of the Central Valley Habitat Joint Venture (CVHJV)**

*The State formally supports the program of the CVHJV to protect, restore and enhance wetlands in the Central Valley. The State specifically supports the Joint Venture's efforts to achieve its goals through maintaining agricultural lands in production, and its broad-based partnerships.*

#### **B. Support substantial funding of financial incentive programs.**

*Landowner incentive programs, including State and Federal easement acquisition programs, are an integral part of the Central Valley Habitat Joint Venture's efforts to conserve and protect existing and restorable wetlands in the Central Valley.*

#### **C. Maximize the potential of the Sacramento Valley Ricelands Habitat Partnership.**

*This unique project involves enhancement of wetlands values while allowing continued economic use of the land. The project also reduces the need to burn rice straw. The State will continue to support this demonstration project and apply similar principles to other geographic areas and crop types, e.g., corn in the Delta.*

#### **D. Initiate an endangered species planning process comparable to the State's Natural Communities Conservation Planning program for a Central Valley wetland type.**

*As development pressures increase in the Valley, the conflict between habitat and species conservation and economic development will intensify. The State will initiate a cooperative, long term planning process to identify and protect a critical mass of wetlands habitat, while allowing economic activities to continue.*

- E. Develop pilot wetlands mitigation banks in the Central Valley.

With the adoption of Statewide guidelines (see above), the State will direct its efforts toward the development of wetlands mitigation banks in the Central Valley, a region where high demand for these banks exists.

- F. Initiate a flood management/wetlands habitat program in the Yolo Bypass.

The Yolo By-Pass, which is managed as a floodway, could also accommodate some wetlands projects in conjunction with existing agricultural activities. The State will initiate a demonstration project to facilitate cooperation between the flood control agencies, the fish and wildlife agencies, and local agricultural interests to allow agricultural and flood control activities to coexist with wetlands habitat.

- ♦ Participating entities: Resources Agency, Fish and Game, WCB, DWR, OPR, OPA, CDFA, BT&H, CVRWQCB, Cal/EPA, Reclamation Board, federal agencies

## II. Regional strategy for wetlands planning and regulatory streamlining in the San Francisco Bay Area

- A. Inventory wetlands in the San Francisco Bay Area.

As a component of the Statewide wetlands inventory, the State will identify: 1) the extent and types of wetlands in the Bay Area; 2) the relative values and functions within different wetlands types and sub-regions; and 3) areas with potential for restoration and enhancement. This Bay Area inventory will use, to the greatest extent feasible, existing data.

- B. Incorporate wetlands and restoration inventory information into broader, participatory wetlands planning effort.

The State will work with local governments to develop a comprehensive wetlands plan for the Bay Area. This effort will include identification of areas for the voluntary acquisition, restoration, and enhancement of wetlands-including the establishment of a preservation-restoration-enhancement goal. The plan and final goal will be prepared with broad public participation. The goal is not meant to be achieved on a permit-by permit-basis.

- C. Promote the acquisition (fee and less than fee), trades, restoration, and enhancement of Bay Area wetlands.

These activities will be undertaken by a variety of State, Federal, local, and private entities with willing landowners. The state will rely in part on a natural resources bond act to maximize its role. The State will emphasize continued economic use (agriculture and salt production) of enhanced lands as it pursues these activities to accomplish the preservation, restoration and enhancement goal. The State will also encourage application of the concepts of the Sacramento Valley Ricelands Partnership to the Bay Area.

- D. Encourage the use of landowner incentives.

Significant potential exists to use landowner incentives to achieve Bay Area restoration targets. Two particularly promising incentive programs include transfer and purchase of development rights programs, and management agreements to maximize compatible agricultural/wetlands values on diked historic baylands.

- E. Improve the wetlands permitting process in the Bay Area

Consistent with the Statewide goal to assume permitting authority under Section 404 of the Clean Water Act, the State will negotiate terms and conditions of a State program general permit (SPGP), or similar mechanism, from the U.S. Army Corps of Engineers to the SFRWQCB and, for a limited set of activities, SFBCDC. This permit would streamline the regulatory process by eliminating the Corps' role.

- ♦ Participating entities: SFRWQCB, SWRCB, SFBCDC, Resources Agency, Cal/EPA, Fish and Game, CDFA, OPR, and OPA

III. Regional strategy to initiate better coordination and communication among diverse interests in Southern California by establishing a "Southern California Wetlands Joint Venture."

There is no mechanism for coordinating regional wetland conservation activities in Southern California. As a result, no regional priorities have been set for protecting, restoring, enhancing or creating wetlands in the region. Consequently, conservation and mitigation--sometimes large scale--are often done on an ad hoc basis without regard to what is good for any relationship to the region as a whole. The Southern California project intends to adopt some of the principles of the successful Central Valley Habitat Joint Venture, while recognizing that the region's resources are much different, in shorter supply, and under much greater threat.

The Administration envisions bringing together the principle stakeholders in the wetlands arena in the region. This would include environmental organizations, agriculture, public agencies, water agencies, and economic interests in need of substantial mitigation (ports, utilities, and large land owners.) This group would set long-term goals and priorities for the conservation of wetlands and develop a policy to achieve those goals, and would encourage a variety of demonstration projects designed to enhance the State's ability to constructively address regional wetlands issues.

- ♦ Participating Entities: Resources Agency, DFG, CDFA, SWRCB, local governments, Federal agencies, and local conservation, agricultural, and business organizations.

ADMINISTRATION AND COORDINATION OF PLAN IMPLEMENTATION AND  
OF STATE WETLANDS PROGRAMS THROUGH NEW INTER-AGENCY TASK  
FORCE

I. Establish an interagency wetlands task force.

*In order to ensure continued coordinated development and implementation of the Wetlands Policy, task force will be established. It will be comprised of senior administration officials representing the broad range of interests on wetlands issues. It will be advisory to the Governor. The task force will also help resolve inter-agency conflicts on wetlands. The task force will appoint an advisory committee of stakeholders and may seek additional technical advice as necessary.*

- ♦ **Participating Entities:** The Resources Agency and Cal/EPA will lead in cooperation with Cal-EPA, Business, Transportation and Housing Agency, Department of Food and Agriculture, Trade and Commerce Agency, Governor's Office of Planning and Research, Department of Fish and Game, Department of Water Resources, and the State Water Resources Control Board. Other State agencies, Federal agencies and private organizations will participate on the task force on specific components of the Policy.

